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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Amendment of Section 2.106 of the |) | ET Docket 95-18 |
| Commission's Rules to Allocate |) | |
| Spectrum at 2 GHz for Use by |) | RM-7927 |
| the Mobile Satellite Service |) | |

To: The Commission

UTC OPPOSITION TO MOTION

UTC, The Telecommunications Association (UTC),¹ hereby submits its opposition to Comsat's motion to place its "Supplemental Comments" on public notice in the above-captioned proceeding to allocate the 1990-2025 MHz and 2165-2200 MHz bands for Mobile Satellite Service (MSS).² UTC instead requests that the FCC treat Comsat's filing as a written *ex parte* communication.

As the national representative on communications matters for the nation's electric, gas, and water utilities, and natural gas pipelines, UTC has been an active participant in this proceeding. Many utilities and pipelines operate extensive microwave systems in the

¹ UTC was formerly known as the Utilities Telecommunications Council.

² On March 14, 1996, Comsat Corporation (Comsat) filed "supplemental comments" in ET Docket 95-18.

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2110-2145 and 2165-2200 MHz bands and will be directly impacted by any reallocation of this spectrum.

While UTC takes no position on the allocation of this spectrum for MSS, UTC is greatly concerned with any proposals to deviate from previously-adopted transition rules for the relocation of incumbent microwave users in the 2 GHz microwave bands to accommodate “emerging technologies.”³ The fundamental premise of these transition rules is that the emerging technology licensee has an obligation to make the incumbent microwave licensee “whole” both operationally and financially. Specifically the emerging technology licensee is to: (1) provide the incumbent with comparable replacement facilities; and (2) and pay all relocation expenses. As the Commission is well aware and recognized in its recommendations in this proceeding, the emerging technology transition rules encompass the 2110-2200 MHz portion of the 2 GHz band, and were clearly intended to apply to MSS operators seeking to occupy this spectrum.

In its recently filed “supplemental comments,” Comsat requests that the Commission abandon the fundamental principles of the emerging technology transition rules and instead allow MSS to obtain shared access to the upper 2 GHz bands until 2005, at which point MSS would obtain exclusive use of the spectrum on a primary basis. Under Comsat’s plan, the cost and responsibility for relocating incumbent microwave systems to comparable facilities would be borne completely by the incumbent microwave licensees.

³ *First Report and Order and Third Notice of Proposed Rulemaking*, ET Docket No. 92-9, 7 FCC Rcd 6886 (1992).

Comsat provides no new compelling information to justify a reopening of this proceeding to yet another round of comments. Instead, Comsat's recommendations amount to little more than a rehashing of its earlier comments and reply comments. Comsat attempts to argue that the results of the 1995 World Radiocommunications Conference (WRC-95) compel the adoption of its revised transition plan. However, even a cursory examination of the Final Acts reveals that while WRC-95 adopted general principles aimed at facilitating the development of MSS in the 2 GHz band it did not establish specifics with regard to relocation issues.

Similarly Comsat's characterization of the WRC-95 as specifying the process for coordinating MSS and FS operations at 2 GHz is a gross distortion of the Final Acts. The Final Acts in no way specify the process for coordinating or sharing spectrum between fixed microwave and MSS. At most, Resolution Com5-10 references unnamed theoretical studies concerning the feasibility of sharing during the short term, and actually goes on to state that "in the long term sharing will be complex and difficult in both bands..."

As UTC has indicated previously, it does not believe that Comsat or any other MSS proponent has been able to conclusively demonstrate that MSS and microwave can coexist.⁴ Prior to the adoption of any rules allowing shared use of the 2 GHz band between microwave and MSS, interference and coordination standards would have to be established through an appropriate body such as the Telecommunications Industry Association.

⁴ UTC Reply Comments, p. 9, filed June 21, 1995, in ET Docket No. 95-18.

More importantly, even if sharing were possible, it would at best be a short term solution. Ultimately, therefore the rules must address the issue of relocating incumbent microwave facilities. Comsat has provided no basis to justify the radical departure from the transition process adopted in ET Docket No. 92-9, and proposed in this proceeding, to guarantee the payment of all microwave relocation expenses. The costs of relocation must be borne by those MSS licensees that benefit from the clearing of the band.⁵

Conclusion

Many utilities, pipelines, and other public safety/public service providers depend on private microwave systems in the upper portion of the 2 GHz band. Consistent with the FCC's proposals, in reallocating this spectrum to MSS the FCC should apply the fundamental tenets of the transition rules adopted in ET Docket 92-9 to ensure the protection of incumbent microwave licensees.


Comsat's "supplemental comments" do not provide any new or compelling information that would justify a reopening of the public record in this proceeding. Accordingly, Comsat's motion should be denied and its supplemental comments should be treated as any other written *ex parte* communication.

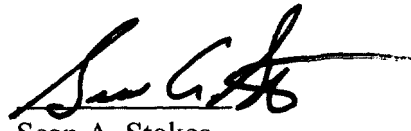
⁵ Comsat's claims that it cannot afford to pay these relocation expenses ring particularly hollow given the fact that the MSS licensees are likely to avoid the auction costs that PCS licensees paid on top of relocation expenses.

WHEREFORE, THE PREMISES CONSIDERED, UTC requests the Federal Communications Commission to take action in accordance with the views expressed above.

Respectfully submitted,

UTC

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